

Exhibit 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE:)
) CA No. 01-12257-PBS
PHARMACEUTICAL INDUSTRY AVERAGE)
WHOLESALE PRICE LITIGATION) Pages 1 - 38
)

MOTION HEARING (JOHNSON & JOHNSON)

BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts
July 12, 2010, 10:35 a.m.

LEE A. MARZILLI
OFFICIAL COURT REPORTER
United States District Court
1 Courthouse Way, Room 7200
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<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 JENNIFER FOUNTAIN CONNOLLY, ESQ., Hagens Berman Sobol</p> <p>5 Shapiro, LLP, 1629 K Street, NW, Suite 300, Washington, D.C.,</p> <p>6 20006, for the Class Plaintiffs.</p> <p>7 EDWARD NOTARGIACOMO, ESQ., Hagens Berman Sobol Shapiro,</p> <p>8 LLP, 55 Cambridge Parkway, Suite 301, Cambridge, Massachusetts,</p> <p>9 02142, for the Class Plaintiffs.</p> <p>10 KENNETH A. WEXLER, ESQ., Wexler Wallace, LLP,</p> <p>11 55 West Monroe Street, Suite 3300, Chicago, Illinois, 60603,</p> <p>12 for the Class Plaintiffs.</p> <p>13</p> <p>14 FOR THE DEFENDANTS:</p> <p>15 ANDREW D. SCHAU, ESQ., Covington & Burling, LLP,</p> <p>16 The New York Times Building, 620 Eighth Avenue, New York,</p> <p>17 New York, 10018-1405, for Johnson & Johnson.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 having an argument on the underlying motions or whether I</p> <p>2 should wait.</p> <p>3 MS. CONNOLLY: I believe both parties are prepared</p> <p>4 today to argue the underlying motions and that we should go</p> <p>5 ahead doing that because we provided a preliminary proffer from</p> <p>6 counsel when we moved to add the new class rep, Ms. Austed; and</p> <p>7 that set forth basically, you know, that she is a Medicare</p> <p>8 Part B participant, that she had some supplemental insurance,</p> <p>9 but it didn't cover all of her payments, she took Remicade. We</p> <p>10 have been in the process of gathering her documents. We did</p> <p>11 see your electronic order this morning giving us a deadline to</p> <p>12 provide those, and we do intend to give them over to the</p> <p>13 Johnson & Johnson defendants. So my suggestion, your Honor,</p> <p>14 would be that we have oral argument on these motions.</p> <p>15 THE COURT: A lot of times you've thought you had a</p> <p>16 great class rep, and it hasn't sort of played out. Have you</p> <p>17 personally looked at these documents?</p> <p>18 MS. CONNOLLY: We have looked at the documents that</p> <p>19 go -- I personally have not, but my co-counsel have looked at</p> <p>20 the documents. The issue has been going back as far as we need</p> <p>21 to go in order to satisfy Johnson & Johnson that she has got</p> <p>22 coverage throughout the class period, and that has been a</p> <p>23 little more difficult. We needed to subpoena United Healthcare</p> <p>24 to get those records, so that has been the delay.</p> <p>25 THE COURT: I don't understand what you just said.</p>
<p style="text-align: right;">Page 3</p> <p>1 P R O C E E D I N G S</p> <p>2 THE CLERK: In Re: Pharmaceutical Industry Average</p> <p>3 Wholesale Price Litigation, Civil Action 01-12257, will now be</p> <p>4 heard before this Court. Will counsel please identify</p> <p>5 themselves for the record.</p> <p>6 MS. CONNOLLY: Good morning again, your Honor.</p> <p>7 Jennifer Connolly from Hagens Berman Sobol Shapiro on behalf of</p> <p>8 the class plaintiffs.</p> <p>9 MR. WEXLER: Ken Wexler, your Honor, from Wexler</p> <p>10 Wallace for the class plaintiffs.</p> <p>11 MR. NOTARGIACOMO: Ed Notargiacomo, your Honor, for</p> <p>12 the class plaintiffs.</p> <p>13 MR. SCHAU: Andrew Schau, your Honor, from Covington &</p> <p>14 Burling for Johnson & Johnson. And let me just add as a</p> <p>15 footnote, that's the first time I've ever said that in open</p> <p>16 court. I changed law firms a couple of weeks ago.</p> <p>17 THE COURT: I forget, which firm were you with?</p> <p>18 MR. SCHAU: I was at Patterson Belknap, your Honor.</p> <p>19 THE COURT: Congratulations on your career switch.</p> <p>20 So there's been some confusion in my office, and I</p> <p>21 guess with me -- the buck stops here -- as to what exactly</p> <p>22 we're doing with Johnson & Johnson because Johnson & Johnson</p> <p>23 had requested that we defer this until the class rep issue had</p> <p>24 been satisfied. So maybe you give me a sense of the class rep,</p> <p>25 what possible issues might come up, and whether it's worth</p>	<p style="text-align: right;">Page 5</p> <p>1 What do you mean? Why does she have to have coverage</p> <p>2 throughout the class period? Have I ruled that? I don't</p> <p>3 think --</p> <p>4 MS. CONNOLLY: Not through the entire class period.</p> <p>5 We have documents from 2003, 2004, 2005. We've always wanted</p> <p>6 to have --</p> <p>7 THE COURT: Oh, so the issue is whether it predates</p> <p>8 the key period of time?</p> <p>9 MS. CONNOLLY: Yes, yes. We have information that</p> <p>10 she's been taking the drug that long, but we don't have the</p> <p>11 claims data yet because we're waiting for her insurer for that.</p> <p>12 THE COURT: So that she's in my what we've been</p> <p>13 calling the period of time where it's the heartland period.</p> <p>14 MS. CONNOLLY: That's correct.</p> <p>15 THE COURT: Before the effective date of the passage</p> <p>16 of the Medicare Modernization Act.</p> <p>17 MS. CONNOLLY: That's right.</p> <p>18 THE COURT: And so that's what you don't have yet?</p> <p>19 MS. CONNOLLY: That's right.</p> <p>20 THE COURT: And you have her say-so?</p> <p>21 MS. CONNOLLY: Yes.</p> <p>22 THE COURT: So what might be the problem then that</p> <p>23 would hold this up?</p> <p>24 MR. SCHAU: Your Honor, I can't answer your question</p> <p>25 about what information she has. In my conversations with</p>